

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **March 28, 2006**

AGENDA ITEM NO.: 6

CONSENT:

REGULAR: **X**

CLOSED SESSION:

(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: Public Hearing regarding the adoption of a Resolution Amending the Articles of Incorporation of the Lynchburg Parking Authority

RECOMMENDATION: Adopt the attached resolution amending the Articles of Incorporation of the Lynchburg Parking Authority.

SUMMARY: The Lynchburg Parking Authority was enabled by an act of the General Assembly in 1974 (copy attached). In 1994 City Council adopted the requisite resolution to implement the 1974 act. That resolution is attached. In 1995 the General Assembly adopted legislation amending the act that enabled the parking authority (copy attached). The Articles of Incorporation were never subsequently amended to reflect the 1995 amendments. With the recent re-establishment of the Lynchburg Parking Authority it is necessary to amend the Articles of Incorporation to comply with the amendments of the 1995 legislation. For example, the 1995 legislation changed the size of the authority to seven members from five.

The powers of the Lynchburg Parking Authority are set by the 1974 act as amended by the 1995 legislation. Attached is a document that summarizes the powers of the authority compiled from both the 1974 and the 1995 legislation. All of these documents have been discussed with the Parking Authority and it recommends adoption of the resolution amending the Articles of Incorporation.

PRIOR ACTION(S): October 11, 1994, adoption of a resolution establishing the Lynchburg Parking Authority; February 14, 2006, Parking Authority recommended revision of the Articles of Incorporation.

FISCAL IMPACT: None

CONTACT(S): Kimball Payne, 455-3990

ATTACHMENT(S): 1974 Act, 1994 Resolution, 1995 Legislation, Summary of Powers document, proposed resolution

REVIEWED BY: lkp

A RESOLUTION AMENDING THE ARTICLES OF INCORPORATION OF THE
LYNCHBURG PARKING AUTHORITY

A. BE IT RESOLVED By the Council of the City of Lynchburg, Virginia, that in accordance with provisions of Chapter 76, of the 1974 Acts of Assembly, adopted by the 1974 General Assembly of Virginia and entitled the "Lynchburg Parking Authority Act", as amended by Chapter 289 of the 1995 Acts of Assembly, adopted by the 1995 General Assembly of Virginia, the Lynchburg City Council does hereby amend the Articles of Incorporation of the Lynchburg Parking Authority previously set forth by resolution adopted October 11, 1994, as follows:

B. ARTICLES OF INCORPORATION OF LYNCHBURG PARKING AUTHORITY

ARTICLE I
NAME

The name of the Authority is the Lynchburg Parking Authority which is created and incorporated by the Council of the City of Lynchburg, Virginia.

ARTICLE II
CREATION

The Authority is organized and created pursuant to the provisions of Chapter 76, of the 1974 Acts of Assembly, adopted by the 1974 Virginia General Assembly, and entitled the "Lynchburg Parking Authority Act", *as amended by the provisions of Chapter 289, of the 1995 Acts of Assembly, adopted by the 1995 Virginia General Assembly.*

ARTICLE III
PURPOSES

The purposes for which the Authority is created are:

SECTION 1

To develop plans for and to coordinate the development and use of sufficient off-street public owned parking facilities in the City and as necessary to acquire, construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate off-street parking facilities.

SECTION 2

To acquire on such terms as the City Council may prescribe, and develop, maintain and operate all public parking facilities currently owned by the City of Lynchburg.

SECTION 3

No real property or parking facilities shall be acquired or developed by the Authority unless and until such acquisition and development has been submitted to and approved by the Lynchburg City Council.

ARTICLE IV
POWERS

The Authority shall have and enjoy all of the powers authorized by the "Lynchburg Parking Authority Act" and all future amendments thereto, which are not inconsistent with the purposes specified herein.

ARTICLE V TERM

The Authority shall continue in existence indefinitely.

ARTICLE VI MEMBERS OF THE AUTHORITY

SECTION 1

The Authority shall have ~~five~~ seven members who shall be appointed by the Lynchburg City Council and who shall serve ~~initial staggered~~ terms ~~expiring 1, 2, 3, 4, and 5 years, from the date of their appointment. After the first appointment, the terms of office for all members shall be for~~ of five years, except that any person appointed to fill a vacancy shall serve only for the unexpired term. The members of the Authority shall serve their respective terms and until their successors are duly appointed and qualified. Members shall be eligible to serve two full terms and the portion of an unexpired term occurring by reason of a vacancy.

SECTION 2

~~The names and addresses of the first members of the Authority are as follows, each of whom shall continue in office for the term opposite his/her name and until his or her successors shall be duly appointed and qualified.~~

<u>NAME</u> _____	<u>ADDRESS</u> _____	<u>TERM</u> _____
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~~The terms of office for each of the first members of the Authority shall begin on the effective date of these Articles.~~

SECTION 32

The Members of the Authority shall elect one of their members to be Chairman and another to be Vice-Chairman of the Authority, and shall elect a Secretary and a Treasurer who need not be members of the Authority. The offices of Secretary and Treasurer may be combined. The terms of the office of Chairman, Vice-Chairman, Secretary and Treasurer shall be provided in the by-laws of the Authority.

SECTION 43

The Authority may provide for the reimbursement of its members for reasonable expenses necessarily incurred in the performance of their duties.

SECTION 54

If any member of the Authority is absent without cause for three consecutive meetings or is absent for four meetings in any twelve month period, that member's position shall be deemed to be vacant.

ARTICLE VII
OFFICES

SECTION 1

The Authority shall maintain an office or offices at such place or places as it may designate.

SECTION 2

The principle office of the Authority shall be at the City Hall Building, 900 Church Street, Lynchburg, Virginia.

ARTICLE VIII
TRUST FUNDS

All monies received by the Authority shall be deemed to be trust funds, to be held and applied as authorized under the "Lynchburg Parking Authority Act". The Authority shall designate a fiscal agent to act as trustee of such monies who shall hold and apply the same as instructed by the Authority.

ARTICLE IX
AMENDMENT OF ARTICLES OF INCORPORATION

These Articles of Incorporation may be amended from time to time, as necessary, by resolution adopted by the Lynchburg City Council, after a public hearing has been advertised in accordance with the advertising requirements, provided in the "Lynchburg Parking Authority Act" for the creation of the Authority.

C. SEVERANCE CLAUSE

If any part, paragraph, section, subsection, clause or phrase of this resolution is held to be invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this resolution, which shall remain in full force and effect as if this resolution had been passed with the invalid part, paragraph, section, subsection, sentence, clause, or phrase hereof omitted, and the Lynchburg City Council declares it would have adopted this resolution if such invalid, part, paragraph, section, subsection, sentence, clause or phrase had not been included herein.

D. EFFECTIVE DATE

This resolution shall take effect immediately upon adoption.

Adopted: ~~October 11, 1994~~ March 14, 2006

Certified: _____
Clerk of Council

Lynchburg Parking Authority

Summary of Powers

The Lynchburg Parking Authority was established by an act of the General Assembly (H 277, the “Lynchburg Parking Authority Act”) on March 21, 1974. It is referenced as Chapter 76 of the Acts of Assembly of 1974.

The act was amended on March 16, 1995 by the adoption of H 1469, Chapter 289 of the Acts of Assembly of 1995. The following sections of the original act were amended and reenacted: 3, 5, 6, 7, 9, 11, 12 and 13-a.

The following summarizes the powers granted under the act, as amended.

Section 1: Title—“Lynchburg Parking Authority Act”

Section 2: Declaration of Public Necessity—notes that traffic congestion had worsened and that the parking of motor vehicles in the streets had contributed to the congestion to such an extent as to constitute a public nuisance endangering the health, safety and welfare of the general public. The act states that the traffic congestion cannot be adequately abated except by off-street parking facilities, that had not theretofore been provided and concludes that the enactment of the provisions of the act is a public necessity.

Section 3: Definitions—of note is the definition of “parking facilities”: “lots, garages, parking terminals, or other facilities or structures for the off-street parking of motor vehicles, open to the public use for a fee...” Note that the definition does not include on-street parking.

Section 4: Creation of the Authority—allows the governing body to create an Authority by resolution after a duly advertised public hearing. Includes required provisions in the articles of incorporation.

Section 5: Membership of the Authority—sets the size of the Authority at seven members appointed to staggered five-year terms. Names the officers.

Section 6: General Grant of Powers—some boilerplate language but powers of interest include

- to construct, reconstruct, equip, improve, extend, enlarge maintain, repair and operate parking facilities
- to issue revenue bonds and revenue refunding bonds
- to fix, charge and collect rates, rentals, fees and other charges for service
- to establish regulations in respect to the use, operation and occupancy of parking facilities

- to acquire both real and personal property
- to lease property as lessor or lessee
- to make and enter into contracts and to employ consultants, employees and agents

Section 7: Revenue Bonds—this section describes the procedures for issuing revenue bonds and restrictions regarding the use of proceeds. It notes that revenue bonds issued by the Authority shall not be deemed to constitute a debt of the Commonwealth or the City.

Section 8: Revenues—requires the Authority to fix rates, etc., without the supervision or regulation by any other entity (including City Council), sufficient to pay the cost of operating and maintaining parking facilities, establishing reserves, and paying the principle and interest on bonds. Also authorizes the Authority to enter into contracts relating to the use of the services and facilities of the parking facilities.

Section 9: Trust Agreements—allows the authority to enter into a trust agreement to secure revenue bonds, including mortgaging property.

Section 10: Trust Funds—stipulates that all moneys received by the Authority shall be deemed to be trust funds.

Section 11: Remedies—allows a bond holder to compel the Authority to perform its duties under the act.

Section 12: Exemption from Taxation—establishes the tax exempt status of the Authority.

Section 13: Revenue Refunding Bonds—authorizes the issuance of revenue refunding bonds.

Section 13-a: Competing Paring Facilities—prohibits the City from constructing, operating or maintaining any new parking facilities unless they are constructed as part of a municipal building or facility.

Section 14: Contributions—authorizes the City to make contributions or advances to the Authority. The City is also authorized to pay the Authority any part or all of the receipts from the operation of on-street parking meters as long as the Authority has outstanding bonds.

Section 15: Actions taken by Authority—stipulates that any action taken by the Authority under the act may be authorized by resolution of the Authority at a regular or special meeting without being published or posted.

Section 16: Additional Method—states the relationship of the act to other applicable laws.

Section 17: Construction—stipulates that the act shall be liberally construed.

Be it enacted by the General Assembly of Virginia:

1. That § 6.1-22, as amended, of the Code of Virginia is amended and reenacted as follows:

§ 6.1-22. Trust securities to be kept separate; custody thereof.—The securities and investments held in each trust shall be kept separate and distinct from the securities owned by the bank and ~~separate and distinct one from another; but the funds of two or more trusts may be invested in a single security or investment provided the bank shows.~~ The bank must at all times show upon its trust records the interests of ~~such trusts—each separate fiduciary account and trust in the—~~each particular security or investment held by it in a fiduciary capacity. Trust securities and investments shall be placed in the joint custody or control of two or more officers or other employees designated by the board of directors of the bank or trust company, and such joint custody shall be interpreted to mean that neither of such officers or employees shall have access alone at any time to such securities and investments, and all such officers and employees shall be bonded. Securities and obligations of the United States and of agencies of the United States government may be held for the account of such bank or trust company by a Federal Reserve Bank in a book-entry custody account, without the requirement of the bank or trust company having physical possession of such securities, provided at all times that the records of the Federal Reserve Bank and the bank or trust company shall at all times identify separately those securities held for the account of the bank or trust company and those held by the bank or trust company in a fiduciary capacity.

CHAPTER 76

An Act to provide for the organization of a Parking Authority as a public body and body politic and corporate by the city of Lynchburg in the Commonwealth of Virginia; authorizing and empowering the Authority to acquire, construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate off-street parking facilities; providing for the issuance of revenue bonds of the Parking Authority, payable solely from revenues, to pay all or any part of the cost of such parking facilities; granting to the Authority power to acquire necessary real and personal property; providing for the imposition and collection of rates, rentals, fees and charges for the use of and for the services furnished by the parking facilities; authorizing the issuance of revenue refunding bonds; exempting from taxation and assessment such bonds and the parking facilities and the income therefrom; and prescribing the powers and duties of the Authority in connection with the foregoing and the rights and remedies of the holders of any bonds issued under the provisions of this act.

[H 277]

Approved March 21, 1974

Be it enacted by the General Assembly of Virginia:

1. § 1. Short Title.—This act shall be known and be cited as the "Lynchburg Parking Authority Act."

§ 2. Declaration of Public Necessity.—It is hereby determined and declared that the free circulation of traffic of all kinds through the streets of the city of Lynchburg in the Commonwealth is necessary to the health, safety and general welfare of the public, whether residing in the municipality or traveling to, through or from such

municipality in the course of lawful pursuits; that in recent years the greatly increased use by the public of motor vehicles of all kinds has caused serious traffic congestion in the streets of the municipality; that the parking of motor vehicles in the streets has contributed to this congestion to such an extent as to constitute at the present time a public nuisance; that such parking prevents the free circulation of traffic in, through and from the municipality and endangers the health, safety and welfare of the general public; that this traffic congestion is not capable of being adequately abated except by provisions for sufficient off-street parking facilities; that adequate off-street parking facilities have not been heretofore provided; and that the enactment of the provisions of this act is hereby declared to be a public necessity.

§ 3. Definitions.—As used in this act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Authority created under the provisions of this act, or, if the Authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to the Authority shall be given by law.

(b) The word "bonds" or the words "revenue bonds" shall mean revenue bonds, revenue refunding bonds or notes of the Authority issued under the provisions of this act.

(c) The word "cost" as applied to parking facilities or to extensions or additions thereto shall include the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all the lands, property, rights, easements and interests acquired by the Authority for such construction or reconstruction or the operation thereof, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, financing charges, interest prior to and during construction, and, if deemed advisable by the Authority, for one year after completion of construction, reasonable provision for working capital, cost of engineering and legal services, cost of plans and specifications, surveys and estimates of cost and of revenues, administrative expense and such other expenses as may be necessary or incident to such construction or reconstruction, the financing thereof and the placing of the parking facilities in operation. Any obligation or expense incurred by the Authority or by the organizing municipality prior to the issuance of bonds under the provisions of this act in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(d) The words "governing body" shall mean the board, commission, council or other body by whatever name it may be known in which the general legislative powers of the municipality are vested.

(e) The word "municipality" shall mean the city of Lynchburg in the Commonwealth of Virginia.

(f) The words "parking facilities" shall mean and shall include lots, garages, parking terminals, or other facilities or structures for the off-street parking of motor vehicles, open to public use for a fee, and may also include, but without limiting the generality of the foregoing, terminal facilities for trucks and busses, waiting rooms, lockers, and offices catering primarily to those using such parking facilities, and all facilities appurtenant thereto and all property, rights, easements and interests relating thereto which are deemed necessary for the construction or operation thereof; provided, however,

the words "parking facilities" shall not mean or include the sale or dispensing of products used in or for the servicing of motor vehicles.

§ 4. Creation of the Authority.—(a) The governing body of the municipality may by resolution signify its determination to organize an Authority under the provisions of this act. Such resolution may be adopted only after a public hearing thereon, notice of which hearing shall be given by publication at least once, not less than ten days prior to the date fixed for such hearing, in a newspaper having a general circulation in the municipality. Such notice shall contain a brief statement of the substance of the proposed resolution, shall set forth the proposed articles of incorporation of the Authority and shall state the time and place of the public hearing to be held thereon. Such municipality shall not be required to make any other publication of such resolution under the provisions of any other law.

(b) Such resolution shall include articles of incorporation which shall set forth:

- (1) the name of the Authority;
- (2) a statement that such Authority is organized under this act;
- (3) the name of the organizing municipality; and
- (4) the names and addresses of the first members of the Authority appointed by the organizing municipality.

(c) Passage of such resolution by the governing body shall constitute the Authority a public body and a body politic and corporate of the Commonwealth of Virginia.

§ 5. Membership of the Authority.—The Authority organized under the provisions of this act shall consist of five members selected by the governing body of the organizing municipality who shall serve for terms expiring one, two, three, four, and five years, respectively, from the date of appointment, the term of such member to be designated by said governing body. The successor of each member of the Authority shall be appointed for a term of five years but any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and any member of the Authority may be reappointed.

Each member of the Authority before entering upon his duties shall take and subscribe an oath or affirmation to support the Constitution of the United States and of the Commonwealth and to discharge faithfully the duties of his office and a record of each such oath shall be filed with the Secretary of the Authority.

The Authority shall select one of its members as Chairman and another as Vice-Chairman and shall also select a Secretary and a Treasurer who may but need not be members of the Authority. The offices of Secretary and Treasurer may be combined. The terms of office of the Chairman, Vice-Chairman, Secretary and Treasurer shall be as provided in the bylaws of the Authority.

A majority of the members of the Authority shall constitute a quorum and the affirmative vote of a majority of all of the members of the Authority shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The members of the Authority shall serve without compensation but shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties.

§ 6. General Grant of Powers.—The Authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each such Authority is hereby authorized and empowered:

(a) to adopt bylaws for the regulation of its affairs and the conduct of its business;

(b) to adopt an official seal and alter the same at pleasure;

(c) to maintain an office at such place or places as it may designate;

(d) to sue and be sued in its own name, plead and be impleaded;

(e) to construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate parking facilities within the corporate limits of the organizing municipality;

(f) to issue revenue bonds of the Authority as hereinafter provided to pay the cost of such construction, reconstruction, equipment, improvement, extension or enlargement;

(g) to issue revenue refunding bonds of the Authority as hereinafter provided;

(h) to fix and revise from time to time and to charge and collect rates, rentals, fees and other charges for the services and facilities furnished by such parking facilities, and to establish and revise from time to time regulations in respect to the use, operation and occupancy of such parking facilities or part thereof;

(i) to acquire in the name of the Authority by gift, or purchase, any lands or rights in lands and interest therein, and to acquire such personal property, as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any parking facilities;

(j) to lease all or any part of such parking facilities upon such terms and conditions and for such term of years as it may deem advisable to carry out the provisions of this act; provided, however, that no enterprise involving the sale or dispensation of any product or commodity used in or for the servicing of motor vehicles shall be conducted on any space thereon;

(k) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including a trust agreement or trust agreements securing any revenue bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants and attorneys and such employees and agents as may, in the judgment of the Authority, be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this act; and

(l) to do all acts and things necessary or convenient to carry out the powers granted by this act.

§ 7. Revenue Bonds.—The Authority is hereby authorized to issue at one time or from time to time, revenue bonds of the Authority for the purpose of paying the cost of constructing, reconstructing, equipping, improving, extending or enlarging any one or more parking facilities. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer

whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The bonds may be issued in coupon or registered form or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Authority.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of this act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth of Virginia or of any political subdivision, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this act.

Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth or of any municipality or other political subdivision of the Commonwealth, or a pledge of the faith and credit of the Commonwealth or of any municipality or other political subdivision, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds.

§ 8. Revenues.—The Authority shall fix, and may revise from time to time, rates, rentals, fees and other charges for the use of and for the services and facilities furnished or to be furnished by any parking facilities or parts thereof owned or operated by the Author-

ity. Such rates, rentals, fees and charges shall not be subject to supervision or regulation by any bureau, board, commission or other agency of the Commonwealth or of any political subdivision. Such rates, rentals, fees and charges shall be fixed and revised so that the revenues of the Authority, together with any other available funds, will be sufficient at all times (a) to pay the cost of maintaining, repairing and operating the parking facilities or parts thereof owned or operated by the Authority, including reserves for such purposes, and (b) to pay the principal of and the interest on all bonds issued by the Authority under the provisions of this act as the same shall become due and payable and to provide reserves therefor. Notwithstanding any of the foregoing provisions of this section, the Authority may enter into contracts relating to use of the services and facilities of the parking facilities on such terms as the Authority shall determine to be proper, which contracts shall not be subject to revision except in accordance with their terms.

§ 9. Trust Agreement.—In the discretion of the Authority, each or any issue of revenue bonds may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the State. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received. In connection with the issuance of such bonds or in order to secure the payment thereof, the Authority shall have power under such agreement to mortgage all or any part of its property, real or personal then owned or thereafter acquired, to vest in the trustee thereunder the right to foreclose such mortgage and to provide the terms and conditions upon which such trustee or the holders of bonds or any proportion thereof may exercise the right of foreclosure. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the construction, reconstruction, equipment, improvement, maintenance, repair, operation and insurance of any parking facilities, the fixing and revising of rates, rentals, fees and charges, and the custody, safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such construction, reconstruction, improvement, maintenance and operation. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustees, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the Authority may deem reasonable and proper for the security of the bondholders. Except as in this act otherwise provided, the Authority may provide for the payment of the proceeds of the sale of bonds and the revenues of any parking facilities or part thereof to such officer, board or depository as it may designate for the custody thereof, and for the method of disbursements thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

All pledges of revenues under the provisions of this act shall be

valid and binding from the time when such pledge is made. All such revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledges without any physical delivery thereof or further action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof.

§ 10. Trust Funds.—All moneys received pursuant to the authority of this act shall be deemed to be trust funds, to be held and applied solely as provided in this act. Any officer to whom, or bank, trust company or fiscal agent to which, such moneys shall be paid shall act as trustee of such moneys and shall hold and apply the same for the purposes thereof, subject to such regulations as this act and the resolution authorizing the issuance of bonds or trust agreement securing such bonds may provide.

§ 11. Remedies.—Any holder of revenue bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this act or by such resolution or trust agreement to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of rates, rentals, fees and charges for the use of or for the services and facilities furnished by any parking facilities.

§ 12. Exemption from Taxation.—As adequate off-street parking facilities are essential to the health, safety and general welfare of the public, and as the exercise of the powers conferred by this act to effect such purposes constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this act constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this act constitute public property and are used for municipal purposes, the Authority shall not be required to pay any taxes or assessments upon any such parking facilities or any part thereof, or upon the income therefrom, and any bonds issued under the provisions of this act, their transfer and the income therefrom (including any profit made on the sale thereof) shall at all times be free from taxation within the Commonwealth.

§ 13. Revenue Refunding Bonds.—The Authority is hereby authorized to issue from time to time revenue refunding bonds for the purpose of refunding any revenue bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds. The Authority is further authorized to issue from time to time revenue bonds of the Authority for the combined purpose of (a) refunding any revenue bonds or revenue refunding bonds of the Authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and (b) paying all or any part of the cost of constructing any additional parking facilities or part thereof, or any improvements, extensions or enlargements of any parking facilities. The issuance of such bonds, the maturities and other details thereof, the rights and remedies of the holders thereof,

and the rights, powers, privileges, duties and obligations of the Authority with respect to the same, shall be governed by the foregoing provisions of this act insofar as the same may be applicable.

§ 13-a. Competing Parking Facilities.—So long as any bonds issued under the provisions of this act are outstanding, the municipality shall not construct, operate or maintain any parking facilities, other than such parking facilities as may be operated or maintained by the municipality on the date of passage by the municipality of a resolution organizing the Authority, which competes with parking facilities of the Authority.

§ 14. Contributions.—The municipality is hereby authorized to make contributions or advances to an Authority which it organizes under the provisions of this act from any available moneys for any purpose of the Authority, including payment of principal and interest on its bonds. The municipality is hereby further authorized to enter into agreements with the Authority obligating the municipality to pay to the Authority any part or all of the receipts from the operation of on-street parking meters and making such covenants as may be deemed necessary or desirable to assure the successful and profitable operation of the on-street parking meters for so long as any bonds of the Authority remain outstanding.

§ 15. Actions taken by Authority.—Any action taken by the Authority under the provisions of this act may be authorized by resolution at any regular or special meeting and each such resolution shall take effect immediately and need not be published or posted.

§ 16. Additional Method.—This act shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of or as repealing any powers now existing under any other law, either general, special or local; provided, however, that the issuance of revenue bonds or revenue refunding bonds under the provisions of this act need not comply with the requirements of any other law applicable to the issuance of bonds.

§ 17. Construction.—This act, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purpose thereof.

2. That an emergency exists and this act is in force from its passage.

CHAPTER 77

An Act to amend and reenact § 6.1-195.41, as amended, of the Code of Virginia, relating to boards of directors of savings and loan associations.

[H 386]

Approved March 21, 1974

Be it enacted by the General Assembly of Virginia:

1. That § 6.1-195.41, as amended, of the Code of Virginia is amended and reenacted as follows:

§ 6.1-195.41. Board of directors generally.—The affairs of every association shall be managed by a board of directors of not less than five nor more than twenty-five persons at least two-thirds of whom

A RESOLUTION CREATING A PARKING AUTHORITY TO BE KNOWN AS THE LYNCHBURG PARKING AUTHORITY AND SETTING FORTH ITS ARTICLES OF INCORPORATION.

A. BE IT RESOLVED By the Council of the City of Lynchburg, Virginia, that in accordance with provisions of Chapter 76, of the 1974 Acts of Assembly, adopted by the 1974 General Assembly of Virginia and entitled the "Lynchburg Parking Authority Act", the Lynchburg City Council does hereby state its intent to create a Parking Authority to be known as the Lynchburg Parking Authority, hereinafter referred to as the "Authority" with the Articles of Incorporation as set forth in Part B of this Resolution.

B. ARTICLES OF INCORPORATION OF LYNCHBURG PARKING AUTHORITY

ARTICLE I
NAME

The name of the Authority is the Lynchburg Parking Authority which is created and incorporated by the Council of the City of Lynchburg, Virginia.

ARTICLE II
CREATION

The Authority is organized and created pursuant to the provisions of Chapter 76, of the 1974 Acts of Assembly, adopted by the 1974 Virginia General Assembly, and entitled the "Lynchburg Parking Authority Act".

ARTICLE III
PURPOSES

The purposes for which the Authority is created are:

SECTION 1

To develop plans for and to coordinate the development and use of sufficient off-street public owned parking facilities in the City and as necessary to acquire, construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate off-street parking facilities.

SECTION 2

To acquire on such terms as the City Council may prescribe, and develop, maintain and operate all public parking facilities currently owned by the City of Lynchburg.

SECTION 3

No real property or parking facilities shall be acquired or developed by the Authority unless and until such acquisition and development has been submitted to and approved by the Lynchburg City Council.

ARTICLE IV
POWERS

The Authority shall have and enjoy all of the powers authorized by the "Lynchburg Parking Authority Act" and all future amendments thereto, which are not inconsistent with the purposes specified herein.

ARTICLE V
TERM

The Authority shall continue in existence indefinitely.

ARTICLE VI
MEMBERS OF THE AUTHORITY

SECTION 1

The Authority shall have five members who shall be appointed by the Lynchburg City Council and who shall serve initial terms expiring 1, 2, 3, 4, and 5

years, from the date of their appointment. After the first appointment, the terms of office for all members shall be for five years, except that any person appointed to fill a vacancy shall serve only for the unexpired term. The members of the Authority shall serve their respective terms and until their successors are duly appointed and qualified. Members shall be eligible to serve two full terms and the portion of an unexpired term occurring by reason of a vacancy.

SECTION 2

The names and addresses of the first members of the Authority are as follows, each of whom shall continue in office for the term opposite his/her name and until his or her successors shall be duly appointed and qualified.

<u>NAME</u>	<u>ADDRESS</u>	<u>TERM</u>
Hal C. Craddock	1312-28 Jefferson Street Lynchburg, VA 24504	1
Eric N. Spain	1415 Main Street Lynchburg, VA 24504	2
Joseph F. Freeman, III	2605 Heron Hill Road Lynchburg, VA 24503	3
J. Robert Davenport	2131 Burnt Bridge Road Lynchburg, VA 24503	4
C. Reggie Whitley	1208 Bell Tavern Road Lynchburg, VA 24503	5

The terms of office for each of the first members of the Authority shall begin on the effective date of these Articles.

SECTION 3

The Members of the Authority shall elect one of their members to be Chairman and another to be Vice-Chairman of the Authority, and shall elect a Secretary and a Treasurer who need not be members of the Authority. The offices of Secretary and Treasurer may be combined. The terms of the office of Chairman, Vice-Chairman, Secretary and Treasurer shall be provided in the by-laws of the Authority.

SECTION 4

The Authority may provide for the reimbursement of its members for reasonable expenses necessarily incurred in the performance of their duties.

SECTION 5

If any member of the Authority is absent without cause for three consecutive meetings or is absent for four meetings in any twelve month period, that member's position shall be deemed to be vacant.

ARTICLE VII OFFICES

SECTION 1

The Authority shall maintain an office or offices at such place or places as it may designate.

SECTION 2

The principle office of the Authority shall be at the City Hall Building, 900 Church Street, Lynchburg, Virginia.

ARTICLE VIII
TRUST FUNDS

All monies received by the Authority shall be deemed to be trust funds, to be held and applied as authorized under the "Lynchburg Parking Authority Act". The Authority shall designate a fiscal agent to act as trustee of such monies who shall hold and apply the same as instructed by the Authority.

ARTICLE IX
AMENDMENT OF ARTICLES OF INCORPORATION

These Articles and Incorporation may be amended from time to time, as necessary, by resolution adopted by the Lynchburg City Council, after a public hearing has been advertised in accordance with the advertising requirements, provided in the "Lynchburg Parking Authority Act" for the creation of the Authority.

IN WITNESS WHEREOF, The Lynchburg City Council has caused these Articles of Incorporation of the Lynchburg Parking Authority to be executed by its Mayor and its official seal to be affixed hereto and attested by its Clerk this ____ day of _____, 1994.

CITY OF LYNCHBURG

BY _____
Mayor

ATTEST:

Patricia Kost, Clerk of Council

C. SEVERANCE CLAUSE

If any part, paragraph, section, subsection, clause or phrase of this resolution is held to be invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this resolution, which shall remain in full force and effect as if this resolution had been passed with the invalid part, paragraph, section, subsection, sentence, clause, or phrase hereof omitted, and the Lynchburg City Council declares it would have adopted this resolution if such invalid, part, paragraph, section, subsection, sentence, clause or phrase had not been included herein.

D. APPOINTMENT OF MEMBERS OF THE AUTHORITY

The following persons are hereby appointed as members of the Authority, each of whom shall continue in office for the term set forth opposite his or her name and until his or her successor shall be duly appointed and shall qualify:

<u>NAME</u>	<u>ADDRESS</u>	<u>TERM</u>
Hal C. Craddock	1312-28 Jefferson Street Lynchburg, VA 24504	1 year
Eric N. Spain	1415 Main Street Lynchburg, VA 24504	2 years
Joseph F. Freeman, III	2605 Heron Hill Road Lynchburg, VA 24503	3 years
J. Robert Davenport	2131 Burnt Bridge Road Lynchburg, VA 24503	4 years
C. Reggie Whitley	1208 Bell Tavern Road Lynchburg, VA 24503	5 years

E. EXECUTION OF ARTICLES

The Mayor of the City of Lynchburg is hereby authorized and directed to execute the Articles of Incorporation of the Lynchburg Parking Authority on behalf of the City Council of Lynchburg, Virginia.

F. EFFECTIVE DATE

This resolution shall take effect immediately upon adoption.

Adopted:

Certified:

Clerk of Council

C-28.1

fire company or volunteer lifesaving or rescue squad electing to be included and maintaining coverage as an employer under this title. If the employer is insured, it includes his insurer so far as applicable.

"Executive officer" means the president, vice president, secretary, treasurer or other officer, elected or appointed in accordance with the charter and bylaws of a corporation. However, such term does not include noncompensated officers of corporations exempt from taxation pursuant to § 501 (c) (3) of Title 26 of the United States Code (Internal Revenue Code of 1954).

"Filed" means hand delivered to the Commission's office in Richmond or any regional office maintained by the Commission; sent by telegraph, electronic mail or facsimile transmission; or posted at any post office of the United States Postal Service by certified or registered mail. Filing by first-class mail, telegraph, electronic mail or facsimile transmission shall be deemed completed only when the application actually reaches a Commission office.

"Injury" means only injury by accident arising out of and in the course of the employment or occupational disease as defined in Chapter 4 (§ 65.2-400 et seq.) of this title and does not include a disease in any form, except when it results naturally and unavoidably from either of the foregoing causes.

CHAPTER 289

An Act to amend and reenact §§ 3, 5, 6, 7, 9, 11, 12 and 13-a of Chapter 76 of the Acts of Assembly of 1974 which created the Lynchburg Parking Authority, relating to definitions, membership, powers, bonds and competition.

Approved March 16, 1995

[H 1469]

Be it enacted by the General Assembly of Virginia:

1. That §§ 3, 5, 6, 7, 9, 11, 12 and 13-a of Chapter 76 of the Acts of Assembly of 1974 are amended and reenacted as follows:

§ 3. Definitions.

As used in this act the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(a) The word "Authority" shall mean the Authority created under the provisions of this act, or, if the Authority shall be abolished, the board, body or commission succeeding to the principal functions thereof or to whom the powers given by this act to the Authority shall be given by law.

(b) The word "bonds" or the words "revenue bonds" shall mean revenue bonds, revenue refunding bonds or notes of the Authority issued under the provisions of this act.

(c) The word "cost" as applied to parking facilities or to extensions or additions thereto shall include the cost of construction or reconstruction, the cost of all labor, materials, machinery and equipment, the cost of all the lands, property, rights, easements and interests acquired by the Authority for such construction or reconstruction or the operation thereof, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, *the cost of issuance of bonds*, financing charges, interest prior to and during construction, and, if deemed advisable by the Authority, for one year after completion of construction, reasonable provision for working capital, cost of engineering and legal services, cost of plans and specifications, surveys and estimates of cost and of revenues, administrative expense and such other expenses as may be necessary or incident to such construction or reconstruction, the financing thereof and the placing of the parking facilities in operation. Any obligation or expense incurred by the Authority or by the organizing municipality prior to the issuance of bonds under the provisions of this act in connection with any of the foregoing items of cost may be regarded as a part of such cost.

(d) The words "governing body" shall mean the board, commission, council or other body by whatever name it may be known in which the general legislative powers of the municipality are vested.

(e) The word "municipality" shall mean the city of Lynchburg in the Commonwealth of Virginia.

(f) The words "parking facilities" shall mean and shall include lots, garages, parking terminals, or other facilities or structures for the off-street parking of motor vehicles, open to the public use for a fee, and may also include, but without limiting the generality of the foregoing, terminal facilities for trucks and busses, waiting rooms, lockers, and offices catering primarily to those using such parking facilities, and all facilities appurtenant thereto and all property, rights, easements and interests relating thereto which are deemed necessary for the construction or operation thereof; provided, however, the words "parking facilities" shall not mean or include the sale or dispensing of products used in or for the servicing of motor vehicles.

§ 5. Membership of the Authority.

The Authority organized under the provisions of this act shall consist of ~~five~~ *seven* members selected by the governing body of the organizing municipality who shall serve ~~for terms expiring one, two, three, four, and five years, respectively, from the date of appointment, the terms of such member to be designated by said governing body staggered five-year terms, and the initial terms for each director shall be five years or less to provide for staggered membership.~~ The successor of each member of the Authority shall be appointed for a term of five years but any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term and any member of the Authority may be reappointed.

Each member of the Authority before entering upon his duties shall take and subscribe an oath or affirmation to support the ~~Constitution~~ *Constitutions* of the United States and of the Commonwealth and to discharge faithfully the duties of his office and a record of each such oath shall be filed with the Secretary of the Authority.

The Authority shall select one of its members as Chairman and another as Vice-Chairman and shall also select a Secretary and a Treasurer who may but need not be members of the Authority. The offices of Secretary and Treasurer may be combined. The terms of office of the Chairman, Vice-Chairman, Secretary and Treasurer shall be as provided in the bylaws of the Authority.

A majority of the members of the Authority shall constitute a quorum and the affirmative vote of a majority of all of the members of the Authority shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. The members of the Authority shall serve without compensation but shall be reimbursed for the amount of actual expenses incurred by them in the performance of their duties.

§ 6. General Grant of Powers.

The Authority created hereunder shall be deemed to be a public instrumentality exercising public and essential governmental functions to provide for the public health and welfare, and each such Authority is hereby authorized and empowered:

- (a) to adopt bylaws for the regulation of its affairs and the conduct of its business;
- (b) to adopt an official seal and alter the same at pleasure;
- (c) to maintain an office at such place or places as it may designate;
- (d) to sue and be sued in its own name, plead and be impleaded;
- (e) to construct, reconstruct, equip, improve, extend, enlarge, maintain, repair and operate parking facilities within the corporate limits of the organizing municipality;
- (f) to issue revenue bonds of the Authority as hereinafter provided to pay the cost of such construction, reconstruction, equipment, improvement, extension or enlargement;
- (g) to issue revenue refunding bonds of the Authority as hereinafter provided;
- (h) to fix and revise from time to time and to charge and collect rates, rentals, fees and other charges for the services and facilities furnished by such parking facilities, and to establish and revise from time to time regulations in respect to the use, operation and occupancy of such parking facilities or part thereof;
- (i) to acquire in the name of the Authority by gift, or purchase, any lands or rights in lands and interest therein, and to acquire such personal property, as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any parking facilities;
- (j) to lease (*as lessor or lessee*) all or any part of such parking facilities upon such terms and conditions and for such term of years as it may deem advisable to carry out the provisions of this act; provided, however, that no enterprise involving the sale or dispensation of any product or commodity used in or for the servicing of motor vehicles shall be conducted on any space thereon;
- (k) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, including a trust

agreement or trust agreements securing any revenue bonds issued hereunder, and to employ such consulting and other engineers, superintendents, managers, construction and financial experts, accountants and attorneys and such employees and agents as may, in the judgment of the Authority, be deemed necessary, and to fix their compensation; provided, however, that all such expenses shall be payable solely from funds made available under the provisions of this act; and

(1) to do all acts and things necessary or convenient to carry out the powers granted by this act.

§ 7. Revenue Bonds.

The Authority is hereby authorized to issue at one time or from time to time, revenue bonds of the Authority for the purpose of paying the cost of constructing, reconstructing, equipping, improving, extending or enlarging any one or more parking facilities. The bonds of each issue shall be dated, shall mature at such time or times not exceeding forty years from their date or dates and shall bear interest at such rate or rates as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, ~~including any interest coupons to be attached thereto,~~ and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds ~~or coupons~~ shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. *Any bond may bear the facsimile signature of, or may be signed by, the person who at the actual time of the execution of the bond is the proper officer to sign the bond although at the date of the bond the person may not have been such officer. When all signatures on bonds are facsimiles, the bonds shall be authenticated by an agent appointed by the Authority or in such manner as the Authority may provide.* Notwithstanding any of the other provisions of this act or any recitals in any bonds issued under the provisions of this act, all such bonds shall be deemed to be negotiable instruments under the laws of this Commonwealth. The bonds may be issued in ~~coupon or registered form or both,~~ as the Authority may determine, and ~~provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest as the Authority may determine.~~ The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine to be for the best interests of the Authority.

The proceeds of the bonds of each issue shall be used solely for the purpose for which such bonds shall have been authorized and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of such bonds, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the authorizing resolution or in the trust agreement securing such bonds, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued for the same purpose.

The resolution providing for the issuance of revenue bonds, and any trust agreement securing such bonds, may also contain such limitations upon the issuance of additional revenue bonds as the Authority may deem proper, and such additional bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution or trust agreement.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, ~~with or without coupons,~~ exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or be destroyed or lost.

Bonds may be issued under the provisions of this act without obtaining the consent of any commission, board, bureau or agency of the Commonwealth of Virginia or of any political subdivision, and without any other proceedings or the happening of other conditions or things than those proceedings, conditions or things which are specifically required by this act.

Revenue bonds issued under the provisions of this act shall not be deemed to constitute a debt of the Commonwealth or of any municipality or other political subdivision of the Commonwealth, or a pledge of the faith and credit of the Commonwealth or of any municipality or other political

subdivision, but such bonds shall be payable solely from the funds herein provided therefor and a statement to that effect shall be recited on the face of the bonds.

§ 9. Trust Agreement.

In the discretion of the Authority, each or any issue of revenue bonds may be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the ~~State~~ *Commonwealth*. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received. In connection with the issuance of such bonds or in order to secure the payment thereof, the Authority shall have power under such agreement to mortgage all or any part of its property, real or personal then owned or thereafter acquired, to vest in the trustee thereunder the right to foreclose such mortgage and to provide the terms and conditions upon which such trustee or the holders of bonds or any proportion thereof may exercise the right of foreclosure. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the construction, reconstruction, equipment, improvement, maintenance, repair, operation and insurance of any parking facilities, the fixing and revising of rates, rentals, fees and charges, and the custody, safeguarding and application of all moneys, and for the employment of consulting engineers in connection with such construction, reconstruction, improvement, maintenance and operation. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustees, if any, and may restrict the individual right of action by bondholders. Such resolution or trust agreement may contain such other provisions in addition to the foregoing as the Authority may deem reasonable and proper for the security of the bondholders. Except as in this act otherwise provided, the Authority may provide for the payment of the proceeds of the sale of bonds and the revenues of any parking facilities or part thereof to such officer, board ~~of~~ or depository as it may designate for the custody thereof, and for the method of disbursements thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as a part of the cost of operation.

All pledges of revenues under the provisions of this act shall be valid and binding from the time when such pledge is made. All such revenues so pledged and thereafter received by the Authority shall immediately be subject to the lien of such pledges without any physical delivery thereof *or filing with respect thereto* or further action, and the lien of such pledges shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Authority, irrespective of whether such parties have notice thereof.

§ 11. Remedies.

Any holder of revenue bonds issued under the provisions of this act ~~or of any of the coupons appertaining thereto~~, and the trustee under any trust agreement, except to the extent the rights herein given may be restricted by the resolution authorizing the issuance of such bonds or such trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the Commonwealth or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this act or by such resolution or trust agreement to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of rates, rentals, fees and charges for the use of or for the services and facilities furnished by any parking facilities.

§ 12. Exemption from Taxation.

As adequate off-street parking facilities are essential to the health, safety and general welfare of the public, and as the exercise of the powers conferred by this act to effect such purposes constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this act constitute the performance of essential municipal functions, and as parking facilities constructed under the provisions of this act constitute public property and are used for municipal purposes, the Authority shall not be required to pay any taxes or assessments upon any such parking facilities or any part thereof, or upon the income therefrom, and any bonds issued under the provisions of this act, their transfer and the income therefrom (including any

profit made on the sale thereof) shall at all times be free from taxation ~~within~~ by the Commonwealth *or by any political subdivision thereof.*

§ 13-a. Competing Parking Facilities.

So long as any bonds issued under the provisions of this act are outstanding, the municipality shall not construct, operate or maintain any parking facilities, other than such parking facilities as may be operated or maintained by the municipality on the date of passage by the municipality of a resolution organizing the Authority, which competes with parking facilities of the Authority. *The prohibition against competing parking facilities shall not apply to parking facilities that are constructed as part of a municipal building or facility.*

CHAPTER 290

An Act to amend and reenact §§ 15.1-50.4 and 22.1-30 of the Code of Virginia, relating to persons eligible to serve on local school boards.

[H 1471]

Approved March 16, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.1-50.4 and 22.1-30 of the Code of Virginia are amended and reenacted as follows:

§ 15.1-50.4. Certain officers not to hold more than one office.

A. Pursuant to Article VII, Section 6 of the Constitution of Virginia, no person holding the office of treasurer, sheriff, attorney for the Commonwealth, clerk of the court in the office of which deeds are recorded, commissioner of the revenue, supervisor, councilman, mayor, board chairman, or other member of the governing body of any county, city or town shall hold more than one such office at the same time.

B. Subsection A shall not be construed to prohibit:

1. A commissioner of the revenue of a county from serving as appointed commissioner of the revenue of a town located in the county;

2. A treasurer of a county from serving as appointed treasurer of a town located in the county;

3. A deputy sheriff of a county from serving as appointed town sergeant of a town located in the county;

4. A person from serving simultaneously as an assistant attorney for the Commonwealth in the City of Winchester and Frederick County; ~~or~~

5. A person from serving as attorney for the Commonwealth for Bland County and assistant attorney for the Commonwealth of Wythe County; *or*

6. *The election of deputies of constitutional officers to school board membership, consistent with federal law and regulation.*

§ 22.1-30. Certain officers may not act on school board or serve as tie breaker.

A. No state, county, city or town officer, no deputy of any such officer, no member of the governing body of a county, city or town, no employee of a school board, and no father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law or brother-in-law of a member of the county governing body may, during his term of office, be appointed as a member of the school board for such county, city or town or as tie breaker for such school board except:

1. local superintendents of public welfare,

2. commissioners in chancery,

3. commissioners of accounts,

4. registrars of vital records and health statistics,

5. notaries public,

6. clerks and employees of the federal government in the District of Columbia,

7. medical examiners,

8. officers and employees of the District of Columbia,

9. in Northumberland County, oyster inspectors,

10. in Lunenburg County, members of the county library board and members of the board of public welfare,

11. auxiliary deputy sheriffs and auxiliary police officers receiving less than five dollars in annual compensation,